IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1350/2006
(Ashok Leyland Finance Ltd. Vs. State of Rajasthan)

Date of Order : 16/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Dr. S.S.Jodha for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 25.8.2006 passed by Special Judge, N.D.P.S. Cases, Chittorgarh (for short 'the trial court' hereinafter) whereby the application filed by the petitioner under Section 457 Cr.P.C. seeking custody of the Jeep bearing Registration No. RJ-21G-1538, was dismissed.

I have heard learned counsel for the petitioner and public prosecutor. Carefully gone through the order impugned. The jeep in question was seized by the police while transporting the contraband Narcotic Drugs and Psychotropic Substance and a case for the offence punishable under the NDPS was registered

against the accused persons. Thus, the said jeep is subject matter of the offence punishable under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act' hereinafter).

Sub-section (3) of Section 60 of the NDPS Act provides that any animal or conveyance used in carrying any narcotic drug or psychotropic substances or controlled substances, or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use. Thus, the vehicle in question was used as conveyance for transporting narcotic drugs and psychotropic substance which is liable to be confiscated under Section 60 of the NDPS Act. The petitioner came with a case that petitioner has financed one Likmaram to purchase the said vehicle on finance and therefore, entitled for the possession of the jeep in question during pendency of the case. Likmaram is the registered owner of the vehicle in question. In a case where the vehicle in question is liable for confiscation for contravention of the provisions of the NDPS Act, the custody of the said vehicle

cannot be given to the financier. In the circumstances, therefore, in my view, the trial court was justified in declining to give custody of the vehicle in question to the petitioner financier.

The petition has no force and it is, therefore, dismissed.

(H.R.PANWAR),J.

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